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Guidelines for Expanded Assistance Authority for Mission Directors

The Acquisition and Assistance (A&A) Task Force issued a final report which contained a series of recommendations for enhancing the A&A process. This notice implements a recommendation and provides guidelines for increased use of warrants by Mission Directors for authority to sign grants to non-governmental organizations.

LEGAL EFFECT OF A WARRANT

In accepting a warrant, the individual assumes full responsibility for all actions which he/she signs. In practice, since a warrant holder must make the personal decision of what clearances to seek from which other advisers (the exercise of the warrant not being conditioned on particular clearances), the warrant holder is usually quite closely and personally involved, if not responsible for, the drafting and negotiation of the document as well as its execution. While someone else may do the background work, the individual who signs an acquisition or assistance instrument is indicating that the selection process was fair, the costs are reasonable, the file is documented completely, the action is reported to M/OP, and all appropriate regulations and procedures were followed. Similarly, that individual is responsible for resolving all performance or payment issues, settling claims, and other administrative issues, as well as close-out. This is distinct from the practice surrounding the exercise of delegated authority for the execution of bilateral strategic objective or project agreements. In these latter cases of international executive agreements, the exercise of the delegation is often quite closely conditioned on the involvement, participation, and clearance of other officers--the execution of the document being a comparatively more ministerial act with usually less personal involvement on the part of the signing officer.

The reason for these distinctions is principally because the instruments covered by warrants (Federal contracts, grants, and cooperative agreements) are governed by far more stringent legal and regulatory requirements than international executive agreements subject to domestic law (even if awarded to indigenous organizations) and adjudicated by domestic tribunals (the General Accounting Office, the Office of Management and Budget, American courts, boards of appeal, etc.).

LEVEL OF WARRANT

All U.S. citizen direct hire principal USAID officers at post (summarized hereafter as "Mission Directors") have authority to sign grants and cooperative agreements up to \$100,000, as amended, by virtue of their position. This authority may be exercised by a USDH individual serving as principal officer on an "acting" basis, but may not be redelegated. (They also have authority to sign personal services contracts up to

\$250,000 and all other contracts up to \$100,000.) If a Mission Director wishes to accept the responsibilities noted above, and meets the qualifying criteria below, a warrant may be issued for \$1,000,000 to sign assistance instruments with indigenous organizations.

The warrant will be limited to use in the country of assignment. If the Director is transferred to a new post, a new warrant may be issued for that post, depending on the availability of local staff and Regional Contracting Officer support. The warrant is to the Mission Director individually, and may not be exercised by anyone else.

TRAINING REQUIREMENTS

Before obtaining a warrant, the individual must complete a two-day course entitled "Acquisition and Assistance for Mission Directors." This course covers issues from the Mission Director's perspective of managing mission operations relating to the acquisition and assistance process, rather than performing the actual work itself.

For example--

- what are the competitive requirements
- how are the differences between a grant and a cooperative agreement reflected in the document
- when a grant is presented for signature-- what should it look like, what documentation should be a part of the file, and what are common pitfalls
- what remedies there are when there are performance problems
- when there is an audit of an indigenous PVO, what is the agreement officer's responsibility with respect to questioned or disallowed costs, what is done with indirect cost rates, etc.
- when are modifications necessary or appropriate

It is also important that the staff who are expected to do the work be adequately trained and knowledgeable. The acquisition specialist involved in preparation of the documents must have successfully completed the Grants Management course, and must have a documented recommendation from the Regional Contracts Officer that they have the on-the-job experience to successfully select, negotiate, and administer the grant or cooperative agreement.

ACCOUNTABILITY

As part of its overall procurement system evaluation responsibilities, the Office of Procurement will conduct reviews of the individual assistance files for the actions executed by the Mission Director as they do for BS-93 Agreement Officers.

The purpose of these reviews is to monitor compliance with applicable rules and regulations and good business practice. If the required documentation is found to be lacking, or where there are serious issues related to the exercise of the warrant, the Assistance Executive may, in his/her discretion, reduce or revoke the warrant.

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